

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

**DEREK LAMB on Behalf of Himself and
on Behalf of All Others Similarly Situated,**

Plaintiff,

V.

BRAHAMPUTRA, LLC,

Defendant.

CIVIL ACTION NO.: 2:20-cv-12145

DECLARATION OF ERIC PARKES

I, Eric Parkes, declare as follows pursuant to 28 U.S.C. § 1746:

1. I am of sound mind, at least eighteen years of age, and am capable of making this statement. The facts contained within this declaration are within my personal knowledge and I swear under penalty of perjury that such facts are true and correct to the best of my memory and knowledge.

2. I have signed and filed my consent to join this collective action lawsuit to show that I am interested in pursuing my claims against BrahamPutra, LLC (“BP”).

3. I worked as an integrator for BP from approximately January 2019 to March 2019 in Iowa and in the Cleveland, Ohio area. In the cellular tower maintenance/repair industry, this is a fairly typical stretch of time working for any one employer since integrators are generally hired for specific projects. Integrators like me do not independently choose to “come and go” from a given project, we stay and work on a given project until it is completed.

4. My primary duty was to test, upgrade and occasionally repair cellular sites for BP’s customers to make sure the cell towers have current technology to send wireless signals for up-and-coming cell phones (for example, upgrading a cell tower from 3G to 4G, or from 4G to 5G). This work is physical labor, takes place outdoors, and includes installing wiring, equipment,

and physically connecting equipment at the cellular sites. To do this work, we use basic hand tools such as cable cutters, screwdrivers, ladders, pliers, wrenches, colored tape, cameras, and zip ties. We have to wear safety equipment such as hard hats, safety shoes, safety glasses, and we need to have a first aid kit on hand. Integrators also take pictures of the work we perform, and we clean the worksite by picking up trash, boxes, and other debris that may be around.

5. At times, we are required to use a laptop to upload pre-written scripts and computer programs into the equipment being upgraded or repaired. We are provided these programs ahead of time by the end client. For example, these programs generate a “pop-up” window indicating that the program was successfully loaded, for example a “green alert” would be issued indicating the upload was successful. Integrators like me only do the installation aspect of this work—we do not write computer code, design computer networks, create computer hardware or software, and we do not have education or experience in computer programming.

6. BP is a staffing company, and provides staffing services in the IT and telecommunications field. Integrators like myself are the “product” that BP sells to its end clients.

7. My work for BP required me to work long hours, including over 40 hours in a week. I would often work seven days a week, and would typically work upwards of 15 hours per day on average. These long hours were the result of the project-oriented type of work that integrators perform, meaning we would receive our assignments in the morning and would stay on the worksite until the cell cite was brought back “on air” so that it was functional. We were not allowed to leave for the day until the work was done for a particular cell cite. There were some days that lasted longer than 15 hours depending on the assignment and the hardware. On average, I would work approximately 90 hours per week. While working for BP, I was required

to work away from home and sleep in hotels. Occasionally, when I returned from the cell site to my hotel, there were times that I had to continue working, which included responding to emails, speaking with my supervisor Ranjan Takier or Willie Singh, sending information related to the cell sites, my hours worked, and other tasks. I was required by BP to submit “time sheets” on a weekly which showed the hours that I worked. Although I worked more than 40 hours in a workweek on a regular basis, I did not receive any overtime pay. Additionally, BP failed to pay me at all for various periods, including my last two weeks working for BP. I complained numerous times by email and phone to Willie Singh and Ranjan Takier, who ignored my concerns about not being paid and retracted numerous emails that were previously sent to me, effectively deleting the record of those emails. I also reported BP’s conduct to the Department of Labor by phone, but am not sure what happened with that complaint.

8. I was not paid overtime wages because BP classified integrators like me as “independent contractors.” As a result, I did not receive overtime pay when I worked more than 40 hours in a workweek. I was paid on a day rate basis. That is, I received a set amount for each day that I worked regardless of the number of hours worked. BP likewise paid other integrators on a day rate basis as well.

9. However, BP’s method of hiring me and other integrators was confusing and BP did not initially make it clear that I was being hired as a “contractor.” For example, BP’s offer letter was sent from BP’s “HR Manager” Willie Singh, which stated that “This Letter is our formal offer of employment and required your [my] written acceptance. . . . The specific terms of your employment are listed on attached ‘Additional Terms and Conditions along with Employment Agreement[.]’ . . . Your employment is ‘at-will’ basis. Therefore, you may terminate your employment anytime with two weeks of required written notice to BrahamPutra,

and BrahamPutra may terminate or alter the conditions of your employment at any time, for any reason.” A true and correct copy of my offer letter is attached as Exhibit 1. While the offer letter at the top indicated I would be a “1099 Contract Employee,” the letter had extensive reference to “employment” and an “Employment Agreement.” I reasonably believed I was an employee of BP based on these representations and the reality of my working relationship with BP.

10. In addition to BP’s ability to terminate or alter my conditions of employment at any time for any reason, my offer letter also made it clear that I was subject to BP’s control. For example, the offer letter stated that “[Y]our employment with BrahamPutra is contingent upon NSN SOW [the end client] & their satisfaction of your performance. General terms of your employment are described in the BrahamPutra Employee Handbook, as revised from time to time. BrahamPutra expect that you will read and abide by all the guidelines set forth in the employee handbook, Employment Agreement, plus any other policies and practices adopted by BrahamPutra from time to time.” *See* Exhibit 1 at p. 1. Basically, I had to do what BP said.

11. The offer letter set my pay rate as \$360.00 per working day and required me to submit time sheets to HR on a weekly basis. *Id.* at p. 2. This means that if I worked only one day per week, I would only be paid \$360.00 for that entire week as my wages. I was not guaranteed any weekly, bi-weekly, or monthly salary separate from my day rate pay.

12. The letter also described me as an “exempt employee” and said that I would not be entitled to receive company benefits or holidays. *Id.* The letter also said that “BrahamPutra LLC don’t encourage overtime. Decision to do overtime is personal’s choice & it’s understanding between you and end client.” *Id.* It was not clear what this meant beyond BP would try to avoid paying me overtime wages. In practice, if integrators like me get “overtime approval” from the end client, we have to inform BP so that BP can bill the end client for that

“overtime,” even though the integrators do not get paid any overtime wages. In other words, BP would get paid our overtime wages by the end client, but would not furnish any of that additional pay to the integrators. Despite directly benefiting from our overtime work, BP did not pay us overtime wages.

13. BP had the authority to hire and fire integrators like myself, as shown in the offer letter. BP assigned the integrators, including myself, to a particular end client where we would perform the upgrades and installation work. For example, after hiring me BP assigned me to work on T-Mobile cell sites in Iowa and in the Cleveland, Ohio area, and told me the specific dates when I needed to be in Iowa and Ohio, and the areas that I would be working.

14. BP also exercised oversight to make sure my work was satisfactory to the end client. Mr. Takier would contact me and make sure I was making the end client happy, such as ensuring I was logging into cell sites properly and otherwise doing my job correctly.

15. I did not have a separate business phone line, website, or business email address. I did not advertise my services, I did not rent office space, and I did not have employees. I am not aware of any integrator that did so. The integrators, including myself, primarily invested their time and energy to do their work, and little else besides basic hand tools.

16. By contrast, BP spent a significant amount of money towards its business, including office space, equipment, and a website. BP invested substantially more money towards its business than any integrator, including myself. For example, BP provided all of the other business infrastructure and equipment. BP would reimburse my expenses for the safety gear like hard hats, glasses, vest, boots, and other similar items that we needed to do our jobs.

17. BP was my full-time job and the full-time job of other integrators. Integrators like me were not realistically able to work for other companies while we were employed (or “under

contract”) with BP because we would work so many hours during a given project. I relied upon working for BP to earn a living and I was not in business for myself. Because I was paid on a day rate basis and because BP and/or the end client set my schedule and work assignments, no amount of business skill or managerial skill could have increased my income while working for BP. Simply put, the only way to earn more money while working for BP would be to work additional days.

18. From my personal experience working for BP, I believe that other workers would be interested in joining this lawsuit if they were informed about the existence of this lawsuit and knew about their rights.

19. To reach these individuals, I believe that sending a notice by U.S. Mail, email, and by text message would be very effective. Email and text message notice would be important supplements to mail notice because integrators are often away from their home addresses when they work for long stretches of time, and would likely not receive a notice with enough time to make a decision whether to join the case. Sending the notice via email and text message would make sure the integrators actually receive and have a chance to learn about the lawsuit.

20. Email addresses and mobile phone numbers largely do not change when the integrators are away from their homes performing work. Integrators have smart phones and/or laptops, which would make it possible to access their email accounts when they are away from home. All that is needed is an internet connection.

21. I declare under penalty of perjury that the foregoing is true and correct.

Date: 3/10/2022

DocuSigned by:
Eric Parkes
414945FD8F8A46C...
ERIC PARKES

Parkes Decl., EXHIBIT 1



January 11, 2019

Eric S Parkes

(SS# XXX-XX- [REDACTED])

D.O.B: [REDACTED]
[REDACTED]
[REDACTED]

Offer Letter- 1099 Contract Employee

Dear Eric,

Welcome to BrahmPutra,

We are pleased to offer you a position with BrahmPutra, LLC as **BTS Engineer @ Des Moines, IA**. This Letter is our formal offer of employment and requires your written acceptance. If you accept this offer, we expect you to begin work on or about start date of **January 12th, 2019**.

The specific terms of your employment are listed on attached "Additional Terms and Conditions along with Employment Agreement" The terms of this letter, including the attached Terms & Conditions along with Employment Agreement, will become effective only upon execution by both you and BrahmPutra.

Your employment is "at-will" basis. Therefore, you may terminate your employment anytime with two weeks of required written notice to BrahmPutra, and BrahmPutra may terminate or alter the conditions of your employment at any time, for any reason. Also your employment with BrahmPutra is contingent upon NSN SOW & their satisfaction of your performance. General terms of your employment are described in the BrahmPutra Employee Handbook, as revised from time to time. BrahmPutra expect that you will read and abide by all the guidelines set forth in the employee handbook, Employment agreement, plus any other policies and practices adopted by BrahmPutra from time to time.

This Letter (together with additional Terms and Conditions) and the Employment agreement are the entire agreement between you and BrahmPutra regarding your employment. This Letter and the Employment Agreement supersede all prior or contemporaneous agreements, promises, communication and/or understanding between you and BrahmPutra, whether written or oral. These agreements may be modified or changed only with Director or higher status personal's written approval.

BrahmPutra LLC

239 New Rd., #B205, Parsippany, NJ-07054

www.BPInfrastructure.com



We look forward to having you start employment with BrahamPutra LLC. If you need further explanation on the contents of this letter and the "Employment Agreement", please do not hesitate to give me a call.

Start Date – On or about January 12th, 2019

We thank you and once again welcome to BrahamPutra.

Sincerely,

Willie Singh
HR Manager

I agree and accept the terms of this offer of employment.

Print name

Signature Acceptance

Date

Please sign and email back this letter, including the attached Additional Terms and Conditions, Employment Agreement to willie@bpinfrastructure.com immediately. Upon receipt of your signed letter we will send you a complete employment package. The remaining forms must be completed entirely and returned to Human Resources within one week prior to employment. Your employment or continued employment is contingent upon successfully passing our standard Background & Drug Testing, a favorable response from your references and the review and verification of your identity and employment authorization as set forth by the U.S Department of Homeland Security and the U.S Citizenship and Immigration Services.

BrahamPutra LLC

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Additional Terms and Conditions of Employment

Compensation and Benefits

You will be compensated **\$360.00 on 1099 (Three Hundred Sixty dollars) / Working Day** and in accordance with BrahamPutra standard payroll policies. You will be compensated on net bi-weekly basis, upon arrival of your approved time sheet basic. In order to secure timely and accurate payment you must submit a signed timesheet to HR on a weekly basis. Any paid overtime or non-billable time must be authorized in advance by your Manager in writing. The written authorization must be submitted to HR with your weekly timesheets.

As Agreed, you are an exempt employee & you will not be entitled to receive company Medical Benefits or any client holiday including but limited to National Holiday/Vacations/Leave/Sick days etc in exchange of higher salary. BrahamPutra LLC don't encourage overtime. Decision to do overtime is personal's choice & it's understanding between you and end client.

Working Day: - A day is considered working day when it is approved by NSN/End Client authorized Personal or end client NSN America's Manager or higher authorities.

Expenses

Contractor shall be responsible for all expenses incurred while performing services under this Agreement. This includes but not limited to automobile, truck, and other travel expenses; road, fuel, and other taxes; fines; radio, pager, or cell phone expenses; meals etc. Company shall reimburse Contractor for all the approved expenses by end client. As per NSN policy Max daily rate could be **\$150.00 based upon the assumption that minimum 100-mile distance is travelled from NSN Office to work site**. Contract Employee must submit an itemized statement of expenses sheet along with all receipts. Company shall reimburse Contract Employee within 30 days after receipt of each statement & approval of NSN/End Client Wireless. **Note: - NSN/End Client can't approve expenses without receipt.**

Return of Company Property:

Your acceptance of this constitutes your written authorization to offset any amounts that you owe BrahamPutra, including advances and reimbursement for equipments not returned, from any amount that the company may owe you, including wages, commission, bonuses payable or pending expense reimbursements.

Effect

These Additional Terms and Conditions form an integral part of your offer of employment, but nothing herein is intended to change the at-will nature of your employment.

cc: Human Resources Department, Account Manager

Please sign and email this letter (PDF) and Employment Agreement form to the willie@bpinfrastructure.com

BrahamPutra LLC

239 New Rd., #B205, Parsippany, NJ-07054

www.BPInfrastructure.com